

**MINUTES
of the
SEVENTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**November 29 - December 1, 2006
Espanola, New Mexico
Santa Fe, New Mexico**

The seventh meeting of the Indian Affairs Committee for the 2006 interim was called to order by Representative James Roger Madalena, co-chair, on Wednesday, November 29, 2006, at 10:37 a.m. at the Big Rock Casino in Espanola, New Mexico.

Present

Rep. James Roger Madalena, Co-chair
Sen. John Pinto, Co-chair (12/1)
Sen. Rod Adair (11/30, 12/1)
Rep. Ray Begaye (11/30, 12/1)
Sen. Dianna J. Duran
Rep. Manuel G. Herrera
Sen. Lidio G. Rainaldi (11/30, 12/1)
Sen. Nancy Rodriguez (12/1)
Sen. John C. Ryan (12/1)
Sen. Leonard Tsosie (12/1)
Rep. Teresa A. Zanetti (11/29, 12/1)

Absent

Rep. Irvin Harrison
Rep. Patricia A. Lundstrom
Rep. Don L. Tripp
Rep. W. C. "Dub" Williams

Advisory Members

Sen. Ben D. Altamirano
Rep. Ben Lujan (11/30, 12/1)
Sen. Joseph J. Carraro (12/1)
Sen. Richard C. Martinez (11/29, 11/30)
Rep. Debbie A. Rodella
Rep. Nick L. Salazar (11/29, 11/30)
Rep. Gloria C. Vaughn

Sen. William E. Sharer

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Larry Matlock

Guests

The guest list is in the meeting file.

Wednesday, November 29 - Big Rock Casino, Espanola

Pueblo of Santa Clara - Welcome and State Update

Lieutenant Governor Alvin Warren welcomed the committee to the Pueblo of Santa Clara as Governor J. Michael Chavarria was out of state at a conference. Lieutenant Governor Warren reviewed with the committee the history of the pueblo. The status of the pueblo as a "domestic dependent nation" has been established by court cases and legislation as the treaty with the United States was never ratified. The pueblo has a tribal population of approximately 2,800 people, but the total population within the pueblo's boundaries is about 10,000. Two-thirds of the City of Espanola fall within the pueblo's boundaries. The pueblo has had a written constitution since 1935. The pueblo has adopted 57 objectives to achieve in a one-year period. The pueblo has experienced problems stemming from the insufficient and dwindling funding of the Indian Health Service and law enforcement efforts.

Calvin Tafoya, chief executive officer of the Santa Clara Development Corporation, briefed the committee regarding the economic development efforts of the pueblo. There has been a conscious effort to separate business pursuits from tribal government. Dual taxation has been a significant problem for businesses operating in Indian country. Recent activities have included a new casino and renovation of the shopping center. The pueblo experienced serious problems with utility providers being unable to provide service to the new facility in a timely manner. The Big Rock Casino has 285-300 employees; the Black Mesa golf course has 25-40 employees; the convenience store has 12 employees; and the corporation offices have six employees. One area of concern continues to be the ongoing allegations of trespass by the City of Espanola water and sewer lines. Recent developments on that topic were discussed by Joseph Naranjo, with the pueblo realty office and Lieutenant Governor Warren.

Bruce Bauer, forestry director for the pueblo, presented a PowerPoint presentation that discussed the following issues: the reforestation of 4,036 acres following the Cerro Grande fire, stream restoration, sedimentation removal, bosque restoration, wildlife habitat enhancement, efforts to reduce insect and disease problems and firefighting.

Lieutenant Governor Warren and Mel Tafoya addressed the committee regarding capital outlay appropriations. Past appropriations have been used for the senior center that is now in its fourth stage of improvements. Other past appropriations have been used for vehicles for the senior center, renovation of the library, the tribal administration building and the judicial complex. In the coming year, the pueblo hopes to receive funding to continue work on the tribal administration building and progress on other projects, including water and sewer improvements, irrigation and a regional adult day care center.

Following the presentation by representatives of the pueblo, members of the committee were taken on a tour that included the senior center.

Native American Voters Issues - Status Update

Martin Aguilar, coordinator with the Native American information program at the Bureau of Elections in the Office of the Secretary of State, and Amos Baca, voting machine technician, briefed the committee on voting statistics for the 2007 general election. The Navajo Nation had a

presidential election, so voter turnout was generally good, ranging from 38 to 68 percent turnout with an average voter turnout across all Navajo polling places of 56 percent, four points higher than the statewide average voter turnout. The voter turnout among the 19 pueblos was 42 percent, although the Pueblo of Sandia had a 64 percent voter turnout. Mr. Aguilar also discussed the party affiliation statistics for Native American voters and the rate of voter registrations. Mr. Baca discussed recent developments in the use of voting machines using paper trails. Mr. Aguilar discussed the use of disability machines and the success with machines programmed to use the Navajo language. They hope to develop voting machines in the future that use the pueblo languages. Finally, Mr. Aguilar noted that a new secretary of state, Mary Herrera, would be taking office in January and that additional funding will be requested for Native American voting staff. In response to questions from the committee, there was also discussion of the use of provisional ballots.

Desi Brown, a volunteer who works with Senator Gerald Ortiz y Pino, made a brief presentation regarding proposed legislation that would permit voters to register on election day. Similar bills have been introduced in recent sessions but have not passed. Election day registration is now permitted in seven states and has resulted in a significant increase in minority voting rates.

Settlement of Indian Water Rights - Status Update

In accordance with the requirements of Section 72-1-11 NMSA 1978, Gregory Ridgley, deputy chief counsel, Office of the State Engineer, Ted Bagley, assistant state attorney general, Tanya Trujillo, general counsel for the Interstate Stream Commission, and Myron Armijo, Native American water liaison with the Office of the State Engineer, briefed the committee on the status of pending Indian water rights settlements. There are presently three Indian water rights settlements in progress: the Navajo Nation settlement in the San Juan adjudication, the settlement agreement with the Pueblos of Nambé, Pojoaque, Tesuque and San Ildefonso in the *Aamodt* adjudication and the Pueblo of Taos settlement in the Rio Pueblo de Taos/Rio Hondo adjudication. In each of these settlements, a settlement agreement has been signed by the tribal entity and the state but not by the United States. The federal government will not sign any agreement until Congress passes legislation authorizing and directing the secretary of the interior to do so. The panelists explained the benefits of each settlement agreement to the affected parties and the costs and funding of each settlement.

Following the presentation regarding the status of settlement of Indian water rights, Representative Madalena recessed the meeting at 3:05 p.m.

Thursday, November 30 - Santa Fe Indian School, Santa Fe

The seventh meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Representative Madalena on Thursday, November 30, 2006, at 9:55 a.m. at the Santa Fe Indian School in Santa Fe.

Governor Ernest Chavez, director for trust land management for the Santa Fe Indian School, gave a blessing and then welcomed the committee to the school and introduced representatives of the student body. Governor Chavez reviewed the recent history of the school,

including the transfer of ownership of the land to the 19 pueblos. Joe Abeyta, school superintendent, also welcomed the committee and commented on the goal of moving education forward in New Mexico. A member of the Governor's Transition Team on Education, Superintendent Abeyta, made the following recommendations: 1) New Mexico must provide educational research opportunities that can be conducted on-site within the local school district; 2) New Mexico must effectively engage parents by clearly defining their roles and allowing for meaningful participation and accountability in their child's education; and 3) New Mexico must build on current models of success when it is well documented that New Mexico schools are succeeding with their students.

Corrections Programs for Native Americans

Joe R. Williams, secretary of corrections, led a panel that included Irma Sedillo, deputy secretary for operations, Jolene Gonzales, deputy secretary for finance, Charlene Knipfing, director of the Probation and Parole Division, Tex Joey, Native American advisor, and Len Foster, Navajo Nation Corrections Project. New Mexico has 484 incarcerated Native Americans, of which 47 are women. Of the 437 men, about 60 percent are serving time for violent offenses. One hundred thirty-one of the Native American inmates are serving time for DWI offenses. The department's programming seeks to recognize the cultural background of Native American inmates and includes sweat lodges, pipe circles, talking circles and cedar smudging. Native American inmates receive spiritual counseling, are permitted to participate in group activities, are permitted to have personal and religious items such as medicine pouches, drums and tobacco, and are permitted to observe native holidays. Secretary Williams also provided statistics regarding the number of Native Americans within the parole system and the number of Native Americans employed by the department (77 persons; 3.9 percent of the work force). He also commented on problems the department has when Native Americans who commit parole violations reside on reservation lands where the department does not have arrest authority. Mr. Foster and Mr. Joey described their efforts in providing spiritual counseling and cultural assistance to Native American inmates. Comments and questions from committee members concerned medical treatment for inmates, Native American gang activity, cultural sensitivity, funding for cultural needs and family visitations.

Repeal of Coal Surtax

Senate President Pro Tem Altamirano and Justin Jones and Joe Grenawalt from BHP Billiton addressed the committee regarding a proposed bill for the 2007 legislative session that would repeal the existing severance tax surtax on coal. Mr. Jones and Mr. Grenawalt explained the background of the surtax and exemptions that have already been enacted, the extent of BHP Billiton's operations and the economic impact of coal mining in northwest New Mexico, and the discriminatory and adverse impact that the existing surtax has on BHP Billiton. Senator Altamirano indicated he would seek the committee's endorsement of his proposed legislation.

Health Testing of Veterans

Marilyn Hoff addressed the committee regarding a proposal that would enact legislation that would provide veterans and their families with the opportunity for testing for adverse health effects resulting from the use of depleted uranium weaponry in recent and ongoing combat operations. Ms. Hoff explained the nature and effect of depleted uranium munitions and how such munitions have been used in combat operations since 1991. She also noted the health risks

involved in using such munitions. The proposed legislation to be sponsored by Representative Peter Wirth and Senator Ortiz y Pino would establish and fund a voluntary testing and screening program for veterans and would set up a health resources information program.

University of New Mexico Minority Program Expenditures

Arley Williams, principal analyst for the Legislative Finance Committee, presented a report responding to a request from the committee earlier in the interim for information regarding the University of New Mexico's expenditures for minority programming. Ms. Williams' report explained the higher education funding structure, including that based on workload and incentive funds, direct appropriations through the general appropriations act, House Bill 2, Jr. and broad initiatives, university expenditures and performance reporting. After having presented this background on university funding, Ms. Williams was able to present only limited information on specific university expenditures on Native American and Hispanic programming.

Tribal Capital Outlay Appropriations - Status Update

Rebecca Martinez, capital outlay manager, Marlene Kelley, project engineer, and Stephanie Kiger, general counsel for the Indian Affairs Department, updated the committee on the status of capital outlay appropriations being administered through the department. Over the past 11 years, the state has appropriated more than \$92 million for tribal infrastructure projects administered by the department; such appropriations have more than doubled over the past two years. The panel reviewed the status of capital outlay projects over the past year and noted progress in reducing the backlog and getting projects underway. Only 10 projects will need to be reauthorized during the 2007 legislative session. The progress in the department's ability to get projects underway is a direct result of a staffing increase to four FTEs. Ms. Martinez outlined the following goals of the Capital Outlay Unit of the department: establish policies and goals to formalize the department's processes for consistency and accuracy; establish performance measures to strengthen the monitoring and compliance process; ensure results by requiring all projects to have two or more stated performance measures; initiate an advance pay process; work with state agencies to standardize contract and reporting requirements; increase the number of training sessions for tribal entities; implement timely joint powers agreements for all projects; and process payment requests within five days of receipt. Ms. Martinez distributed a spreadsheet showing the status of all capital outlay projects being administered by the department. There is currently \$64.3 million in active projects and the department has closed out 63 projects since October 1, 2006. Committee members once again discussed what is being done to implement Senate Bill 579 from the 2006 legislative session.

Tribal Infrastructure Act - Status Update

Governor Ernest Chavez, a member of the Tribal Infrastructure Board, reported on the status of the funding requests for the current year. The four tribal representatives had met to review and score all of the proposed projects in accordance with the guidelines adopted by the board. The board had received 49 project proposals totaling \$31,869,017; \$5 million was available to award. In the end, the board approved 10 projects for infrastructure, housing, health facilities and economic development initiatives. The projects will leverage approximately \$8.7 million from other funding sources, create 85 to 100 quality jobs, impact 24,269 residents and be completed within 18 months. The approved projects were the following:

<u>Entity</u>	<u>Project</u>	<u>TIF Funds</u>
Cochiti Pueblo	Wellness Center	\$500,000
Acoma Pueblo	Wastewater Treatment System	750,000
Mescalero Apache	Water Storage Tank	400,000
Upper Fruitland Chapter	Raytheon Expansion (NAPI)	2,000,000
Pojoaque Pueblo	White Sands Housing	300,000
Upper Fruitland	Chapter House	400,000
Laguna Pueblo	Water Wells - Design & Repair	132,000
Ohkay Owingeh	Head Start Program	135,000
Zuni Pueblo	Wastewater Improvement	150,000
Pinedale Chapter	Bathroom Additions	233,000

Governor Chavez concluded by noting that the \$5 million was able to address only a small portion of the needs of Native American communities and the state needs to find a way to fund the trust fund established in the Tribal Infrastructure Act.

Following the presentation regarding the status of the Tribal Infrastructure Act, Representative Madalena recessed the meeting at 3:10 p.m.

Friday, December 1 - Room 322, State Capitol

The seventh meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Senator Pinto on Friday, December 1, 2006, at 9:26 a.m. in Room 322 at the State Capitol in Santa Fe.

Indian Affairs Department - Legislative Update

Benny Shendo, Jr., secretary of Indian affairs, presented the committee with the department's legislative goals for the 2007 legislative session. The department's legislative priorities include the following: designation of a reburial ground for unmarked human remains and authorization for the Office of the Medical Investigator to conduct forensic investigations and related services for tribal governments without charge. The department also supports the following interagency legislative initiatives: lottery scholarship eligibility for tribal colleges; grandfathering certified alcohol drug abuse counselors into the state's behavioral health system; assignment of income support workers to tribal and Indian Health Service facilities; amendments to the Indian Education Act; and settlement of Indian water rights. Members of the committee commented on several of the initiatives discussed by Secretary Shendo and once again discussed implementation of Senate Bill 579 from the 2006 legislative session. Senator Tsosie moved that the committee endorse the legislative initiatives of the Indian Affairs Department. The motion was seconded by Senator Rainaldi and passed without objection. Senator Tsosie also moved that the committee recognize Esther Martinez on American Indian Day in 2007. The motion was seconded by Representative Vaughn and passed without objection.

Endorsement of Legislation

Chase Van Gorder, staff attorney, presented the committee with a folder of draft legislation for the committee to consider endorsing. The first bill for discussion was a bill

proposed by Representative Begaye to certain transfer students eligible for lottery scholarships. There was considerable discussion by committee members, including issues related to the status of illegal immigrants and military dependents and several amendments were made, seconded and later withdrawn. After considerable discussion, the committee voted on whether to endorse the bill. Senators Adair, Carraro and Duran and Representative Zanetti voted in opposition. Then there was discussion regarding whether there was a quorum of voting members present and whether advisory members of the committee could be designated as voting members. Following a recess, it was determined that the committee would proceed as a subcommittee and the committee would request permission from the Legislative Council to meet on one additional day in December to vote on committee endorsement. The committee then voted as a subcommittee to recommend endorsement of all of the appropriations bills, the access to healthy foods memorial and all of the substantive bills except those addressing the Indian arts and crafts certification mark program, the Native American GRIP program and the aspartame ban. A schedule of the actions taken is attached.

Adjournment

There being no further business before the committee, the seventh meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 1:05 p.m.